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HOUSE BILL 585

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Keith J. Gardner

AN ACT

RELATING TO HEALTH CARE; ENACTING THE SCOPE OF PRACTICE ACT;
PROVIDING FOR A PROCESS TO REVIEW THE SCOPES OF PRACTICE OF
CERTAIN LICENSED HEALTH PROFESSIONALS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Scope of Practice Act".

Section 2. DEFINITIONS.--As used in the Scope of Practice
Act:

A. "commission" means the New Mexico health policy
commission;

B. "health profession" means a health-related
activity or occupation licensed pursuant to Chapter 61, Article
2, 3, 4, 5A, 6, 7A, 8, 9, 9A, 10, 10A, 11, 12, 12A, 12B, 12C,
12D, 12E, 14A, 14B, 14C, 14D or 14E NMSA 1978;

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1 C. "licensing board" means a licensing board of a
2 specific health profession; and

3 D. "scope of practice" means those practice
4 activities permitted a health profession as defined in its
5 licensing act and rules adopted pursuant to that act.

6 Section 3. PROPOSED CHANGES TO SCOPE OF PRACTICE--
7 PROCEDURE--LICENSING BOARD ANALYSIS.--

8 A. A member of a licensing board, a licensee of the
9 licensing board or any other person seeking a change in the
10 scope of practice of a health profession shall notify the
11 respective licensing board and request a hearing concerning the
12 proposed change. The licensing board shall notify the
13 commission and shall:

14 (1) collect data, including information from
15 the applicant and all other appropriate persons, necessary to
16 review the proposal;

17 (2) conduct a technical assessment of the
18 proposed change, if necessary with the assistance of a
19 technical advisory group established for that specific purpose,
20 to determine whether the proposed change is in the profession's
21 current scope of practice; and

22 (3) provide the board's analysis, conclusions
23 and any recommendations, together with all materials gathered
24 for the review, to the commission.

25 B. A person seeking a change in a health profession

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1 scope of practice pursuant to Subsection A of this section
2 shall provide the licensing board with any information that the
3 board requests.

4 Section 4. REVIEW PANELS--APPOINTMENT--DUTIES.--

5 A. When notified of a proposed change in a health
6 profession scope of practice, the commission shall appoint an
7 ad hoc review panel of sufficient numbers and expertise to
8 review and make recommendations on the proposed change. Each
9 panel shall:

10 (1) include one board member of the licensing
11 board for the health profession from which the proposed change
12 in scope of practice originates; provided that where changes
13 are proposed to the scopes of practice of dental professionals,
14 each panel reviewing those proposed changes shall include both
15 a member of the New Mexico board of dental health care and the
16 New Mexico dental hygienists committee;

17 (2) include the dean of the university of New
18 Mexico school of medicine; and

19 (3) have at least one-fourth of its membership
20 composed of individuals who have no economic interest in the
21 profession originating the request for a change in scope of
22 practice.

23 B. The director of the commission or the director's
24 designee shall chair each review panel and shall be a nonvoting
25 member.

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C. The review panel shall:

(1) familiarize itself with the commission's rules on procedures and criteria for scope of practice reviews;

(2) ensure appropriate public notice of its proceedings;

(3) invite testimony from persons with special knowledge in the field of the proposed change;

(4) assess:

(a) whether a proposed change offers potential harm to the health, safety or welfare of consumers;

(b) whether the proposed change will benefit the health, safety and welfare of health consumers;

(c) what economic impact on overall health care delivery the proposed change is likely to have;

(d) whether the potential benefits of the proposed change outweigh potential harm; and

(e) the extent to which the proposed changes will affect the availability, accessibility, delivery and quality of health care in New Mexico; and

(5) by September 15 of each year, provide to the governor, the New Mexico legislative council, the legislative finance committee and the interim legislative health and human services committee a full report, including any legislative recommendations, on each proposed change in scope of practice brought before the commission. The director

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1 of the commission shall also provide an oral presentation of
2 the report to the legislative finance committee and the interim
3 legislative health and human services committee.

4 Section 5. COMMISSION--SCOPE OF PRACTICE REVIEWS AND
5 CRITERIA--POWERS AND DUTIES.--The commission shall:

6 A. annually notify in writing each licensing board
7 and, whenever possible, each professional association and group
8 of health professions of both the licensing board's and the
9 commission's responsibilities to review proposed changes in the
10 scope of practice of health professions;

11 B. ensure that scope of practice reviews by ad hoc
12 review panels are conducted as public hearings with notice
13 given pursuant to the Administrative Procedures Act;

14 C. provide staff services to all ad hoc review
15 panels created pursuant to Section 4 of the Scope of Practice
16 Act; and

17 D. provide the legislature with any assistance or
18 information it requests regarding the proposal.

19 Section 6. RULES.--The commission and each licensing
20 board shall promulgate such rules as are necessary to carry out
21 the provisions of the Scope of Practice Act.